

§ 1435.310

7 CFR Ch. XIV (1–1–04 Edition)

(3) If any portion of the deficit remains after paragraphs (d)(1) and (d)(2) of this section have been implemented, be reassigned to imports.

(e) The crop year allocation of each sugar beet or sugarcane processor who receives a reassignment will be increased accordingly for that year.

§ 1435.310 Sharing processors' allocations with producers.

(a) Every sugar beet and sugarcane processor must provide CCC a certification that:

(1) The processor intends to share its allocation among its producers fairly and equitably, and in a manner adequately reflecting each producer's production history, and

(2) The processor has, in the previous allotment year, shared its allocation among producers fairly and equitably, reflecting each producer's production history. If a processor is unable to provide such certification, CCC may reduce or eliminate its marketing allocation.

(b) Any producer or processor may request arbitration of a dispute regarding the sharing of the processor's allocation among the producers. Arbitration will be available on behalf of CCC at the State FSA office for the State in which the processor is located. Subsequent review of the arbitration decision is available at the discretion of the Executive Vice President, CCC. Any arbitration is subject to appeal to the Office of the Administrative Law Judge, USDA.

§ 1435.311 Proportionate shares for sugarcane producers.

(a) Proportionate shares and the provisions of this section and §§ 1435.312 through 1435.316 apply only to Louisiana sugarcane farms.

(b) CCC will determine whether Louisiana sugar production, in the absence of proportionate shares, will exceed the quantity needed to enable processors to fill the State cane sugar allotment and provide a normal carryover inventory. If the determination is made that the quantity of sugar produced in Louisiana, plus a normal carryover inventory, will exceed the State's allotment, CCC will establish for each sugarcane producing farm a proportionate share

that limits the sugarcane acreage that may be harvested on the farm for sugar or seed.

(c) For purposes of determining proportionate shares CCC will:

(1) Establish the State's per-acre yield goal at a level not less than the average per-acre yield in the State for the 2 highest years from among the 1999 through 2001 crop years;

(2) Adjust the per-acre yield goal by the State average recovery rate;

(3) Convert the State cane sugar allotment into a State acreage allotment by dividing the State allotment by the adjusted per-acre yield goal;

(4) Establish a uniform reduction percentage for the crop by dividing the State acreage allotment by the sum of all adjusted acreage bases in the State as determined under § 1435.312; and

(5) Apply the uniform reduction percentage to the acreage base established for each sugarcane producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

§ 1435.312 Establishment of acreage bases under proportionate shares.

(a) CCC will establish a sugarcane crop acreage base for each farm subject to proportionate shares as the simple average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999 through 2001 crop years. Acreage considered planted shall be determined under § 1435.315.

(b) In establishing crop acreage bases, CCC will:

(1) Not consider acreage prevented from planting, and

(2) Consider acreage planted to sugarcane that fails.

(c) In establishing crop acreage bases, CCC will allow producers who have not previously reported their sugarcane acreage to do so by a date CCC determines and announces. Late-filed acreage reports will be accepted as the Deputy Administrator determines appropriate.

(d) The farm's crop acreage base shall be used to determine the farm's proportionate share.

(e) The regulations at part 718 of this title shall apply to this subpart, except

reconstitution of farms with a sugar crop acreage base shall not be allowed across State lines.

§ 1435.313 Permanent transfer of acreage base histories under proportionate shares.

(a) A sugarcane producer on a farm may transfer all or a portion of the producer's acreage base history of land owned, operated, or controlled to any other farm in the State that the producer owns, operates, or controls under the Deputy Administrator-issued instructions. The transfer will reduce permanently the transferring farm's sugarcane acreage base history and increase the receiving farm's crop acreage base.

(b) All farm owners must agree in writing to the transfer.

(c) Producers may transfer sugarcane acreage base histories under this section by the date the State FSA committee establishes annually.

§ 1435.314 Temporary transfer of proportionate share due to disasters.

(a) If, for reasons beyond the control of a producer on a farm, such producer is unable to harvest sugarcane acreage relative to all or a portion of the proportionate share established for the farm, the Secretary may preserve, on producer application and written consent of all owners of the farm, for a period of not more than 5 consecutive years, the acreage base history of the farm to the extent of the proportionate share involved.

(b) Such proportionate share may be transferred, with the written consent of all owners of the farm, for 1 crop year to other farm owners or operators subject to the following conditions:

(1) The acreage base history of the transferring farm will be preserved for a period from 1 to 5 years; and

(2) Acreage base history will not be increased on the receiving farm.

(c) Producers who transfer a proportionate share under this section will be required to:

(1) Initiate the transfer in the county FSA office where the proportionate shares are established; and

(2) Obtain approval from the transferring county FSA committee.

(d) All transfers made under this section must be completed by the date the State FSA committee establishes.

§ 1435.315 Adjustments to proportionate shares.

Whenever CCC determines that, because of a natural disaster or other condition beyond the control of producers adversely affecting a sugarcane crop, the amount of sugarcane produced by producers subject to proportionate shares will not be sufficient to enable state processors to produce sufficient sugar to meet the State's cane sugar allotment and provide a normal carryover of sugar, CCC may uniformly allow producers to harvest sugarcane in excess of their proportionate shares, or suspend proportionate shares entirely.

§ 1435.316 Acreage reports for purposes of proportionate shares.

(a) A report of planted and failed acreage shall be required on farms that produce sugarcane for sugar or seed. Such report shall also specify the total acreage intended for harvest for sugar and seed.

(b) The reports required under paragraph (a) of this section shall be on forms prescribed by CCC and shall be filed annually with the county FSA committee by the applicable final reporting date CCC establishes. The farm operator or farm owner shall file such reports.

(c) Acreage reports will be used to determine compliance with proportionate shares and acreage bases for future proportionate shares.

(d) An acreage report may be accepted after the established date for reporting if physical evidence is still available for inspection that may be used to make a determination relative to:

(1) Existence of the crop;

(2) Use made of the crop;

(3) Lack of crop; or

(4) Disaster condition affecting the crop.

(e) The farm operator shall pay the cost of a farm visit by an authorized FSA employee unless the county FSA committee has determined that failure to report in a timely manner was beyond the producer's control.